

# TERRELL | MARSHALL

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File No. 1712-001.C

November 22, 2021

**VIA ECF ONLY**

The Honorable Valerie Caproni  
United States District Judge  
U.S. District Court for Southern District of New York  
Thurgood Marshall United States Courthouse  
New York, New York 10007

Re: Christina Melito, et al. v. American Eagle Outfitters, et al., No. 14-cv-2440-VEC

Dear Judge Caproni:

This firm, along with Fitapelli & Schaffer, LLP and Keogh Law, LTD, represent Plaintiffs and the Settlement Class in the above-referenced action. Gordon Rees Scully Mansukhani LLP represents American Eagle Outfitters, Inc. and AEO Management Co. The parties jointly move to correct a scrivener's error in the Final Approval Order (Dkt. 319, ¶14), which named two *cy pres* recipients instead of the sole *cy pres* recipient identified in the settlement agreement (Dkt. 253-1, ¶12.3), motion for preliminary approval (Dkt. 252 at 15), and notice (Dkt. 294-6 at 2, 5). A proposed order is attached as Exhibit 1.

Respectfully submitted,

TERRELL MARSHALL LAW  
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cc: all counsel of record

- Exhibit 1 -

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 11/22/21

CHRISTINA MELITO, CHRISTOPHER  
LEGG, ALISON PIERCE, and WALTER  
WOOD, individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

AMERICAN EAGLE OUTFITTERS, INC., a  
Delaware corporation, AEO  
MANAGEMENT CO., a Delaware  
corporation, and EXPERIAN MARKETING  
SOLUTIONS, INC.,

Defendants.

NO. 1:14-cv-02440-VEC

**ORDER**

WHEREAS on September 8, 2017, the Court issued an Order Granting Final Approval of Class Action Settlement, Dismissing Class Plaintiffs' Claims and Entering Final Judgment ("Final Approval Order"), Dkt. 319;

WHEREAS in the Class Action Settlement Agreement and Release, Plaintiffs and Defendants American Eagle Outfitters, Inc. and AEO Management Co. negotiated and agreed to designate the National Consumer Law Center ("NCLC") as the sole *cy pres* recipient, Dkt. 253-1, Paragraph 12.3. NCLC was also the only *cy pres* recipient mentioned in the motion for preliminary approval. Dkt. 252 at 15. In addition, NCLC was the only *cy pres* recipient described in the notice. Dkt. 294-6 at 2, 5. However, the proposed Final Approval Order presented to the Court, which the Court entered, inadvertently included a second *cy pres* recipient, the National Foundation for Credit Counseling;

WHEREAS Paragraph 14 of the Final Approval Order includes the inadvertent *cy pres* recipient and states, in relevant part: Should any Remaining Funds be distributed, this Court

hereby approves the National Foundation for Credit Counseling and the National Consumer Law Center (“NCLC”) as the *cy pres* recipients who shall receive an equal distribution. The funds to NCLC shall be earmarked for work associated with the FCC to protect consumer rights under the TCPA. This Court finds this organization closely aligned with the Settlement Class’s interests, Dkt. 319; and

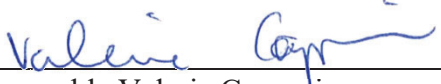
WHEREAS this Court retained jurisdiction to oversee the implementation and enforcement of the Agreement. *Id.* ¶27.

IT IS HEREBY ORDERED:

This Court hereby approves the National Consumer Law Center (“NCLC”) as the sole *cy pres* recipient who shall receive the distribution outlined in Paragraph 14 of the Final Approval Order. The funds to NCLC shall be earmarked for work associated with the FCC to protect consumer protections under the TCPA. This Court finds this organization closely aligned with the Settlement Class’s interests.

**IT IS SO ORDERED,  
ADJUDGED AND DECREED.**

Date: November 22, 2021

  
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Honorable Valerie Caproni